



State of Utah

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Governor

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Lieutenant Governor

Department of Environmental Quality

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Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

C/007/039 Incoming
cc: Steve C.

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Executive Secretary

December 9, 2010

CERTIFIED MAIL **(Return Receipt Requested)**

Mr. Erwin Sass, General Manager
Dugout Canyon Mine
P.O. Box 1029
Wellington, UT 84542

Dear Mr. Sass:

Subject: Upset Determination based on Part III.H of Utah Pollutant Discharge Elimination System (UPDES) Permit #UT0025593

We have received and reviewed your November 15, 2010 request for a declaration of an upset condition that resulted in a non-compliance with your UPDES permit for total iron at Dugout Mine Outfall 005. *Part III.H.* of your UPDES permit identifies the requirements for establishment of an upset. Through the letter you submitted on November 15, 2010 and one submitted by Vicki S. Miller on November 4, 2010 and various phone calls, meetings and inspections the State has established the following conditions existing at the time of non-compliance:

- a. The upset was caused as a result of actions taken to put out a fire in the mine. The carbon dioxide atmosphere artificially induced in the mine to smother the fire likely caused a drop in the mine water pH. This lower pH leached out additional iron not normally present in the mine water.
- b. The mine at the time was under normal operating conditions and the mine was in compliance with its discharge permit (UT0025593) at the Outfall 005 discharge point.
- c. Notice of the upset/permit non-compliance was reported by phone as required by *Part III. I* (within 24 hours of becoming aware of the upset) of Dugout's UPDES permit.

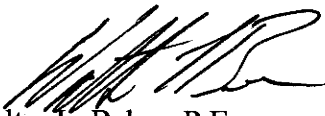
- d. Without being directed to do so by any regulatory agency, Dugout completed remedial measures, as indicated in your letter of November 15th (*Part III.D.* of Dugout's UPDES permit), to try and mitigate downstream problems as a result of the high iron in the discharge.

Based on the above four conditions, Dugout has met the requirements to establish an upset condition. This means that an enforcement action will not be taken at this time. However, the non-compliance for iron needs to be resolved and compliance achieved as soon as possible. The first thing that should be done is to make sure that the underground treatment prior to discharge is optimized. We feel that with the addition of an appropriate flocculent and adequate time for settling, most of the iron should be removed. We would like to review with your staff the design and current operation of the current underground treatment system at Outfall 005. The next step is for Dugout staff to review and determine if the above ground mitigation efforts could be improved. Finally, Dugout is requested to submit a compliance schedule with specific steps leading to final compliance with its UPDES permit, along with an associated time frame. This compliance schedule shall be submitted no later than two weeks after receipt of this letter, and will be reviewed and approved by DWQ personnel. Not adhering to an approved compliance schedule and time frame may result in an enforcement action.

If you have any questions regarding this letter, please contact Mike Herkimer of my staff at (801) 536-4386 or mherkimer@utah.gov.

Sincerely,

UTAH WATER QUALITY BOARD



Walter L. Baker, P.E.
Executive Secretary

WLB:MH:mc ^{FB}

cc: Darron Haddock, DOGM
Stephanie Gieck, EPA Region VIII